

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
LISA SNEAD,

Plaintiff,

-against-

CITY OF NEW YORK, et al.,

Defendants.

-----x
PLAINTIFF'S
STATEMENT OF
UNDISPUTED FACTS
PURSUANT TO LOCAL
CIVIL RULE 56.1

16 CV 9528 (AJN)

Pursuant to Rule 56.1 of the Local Civil Rules of this Court, plaintiff submits the following statement of material facts as to which there is no genuine issue to be tried:

1. On June 24, 2015 (the date of plaintiff's arrest), defendant Gregory LoBianco (plaintiff's arresting officer) never observed plaintiff Lisa Snead drink from the can he alleges she was holding. Deposition Testimony of Gregory LoBianco, December 4, 2017, annexed to the Declaration of Gabriel P. Harvis dated January 22, 2018 ("Harvis Decl.") as Exhibit 1 ("LoBianco Dep."), p. 43, ln. 18-21 (Q: Did you see her drinking from the can? A: I did not.).

2. Following plaintiff's arrest, defendant LoBianco signed a criminal complaint under penalty of perjury attesting to the circumstances of plaintiff's arrest. *Id.* at p. 271, ln. 8-11; Criminal Complaint, annexed to Harvis Decl. as Exhibit 2.

3. Aware that he was signing the document under the penalty of perjury, defendant LoBianco reviewed the criminal complaint before signing it. LoBianco Dep., Harvis Decl., Exhibit 1, p. 271, ln. 5-7.

4. In the sworn criminal complaint he executed, defendant LoBianco falsely averred that he had "observed" plaintiff Lisa Snead "drinking from an open Bud Light Rasberita can." Criminal Complaint, Harvis Decl., Exhibit 2, p. 1; LoBianco Dep. Harvis Decl., Exhibit 1 (Q: You see where it says that you

observed...Lisa Snead drinking from an open can? A: I do. Q: That's not true; right? A: No, I had not seen her drinking from the can.).

5. Defendant LoBianco could offer no explanation for his apparent perjury. *Id.*, p. 271, ln. 22 – 25. (Q: Why did you sign something under the penalty of perjury saying that you had seen her drinking when you didn't? A: I'm not sure.)

6. Defendant LoBianco executed the criminal complaint at approximately 11:20 a.m. on June 25, 2015. Criminal Complaint, Harvis Decl., Exhibit 2, p. 2.

7. After signing the criminal complaint, defendant LoBianco faxed it to the Manhattan District Attorney's office. Memo Book of Gregory LoBianco, annexed to Harvis Decl. as Exhibit 3, p. 4 ("1120: Signed & faxed Afadavid (sic)"); OLPA, annexed to Harvis Decl. as Exhibit 4, p. 1 ("COMPLAINT RECEIVED 6/25/15 1219").

8. Defendant LoBianco never contacted prosecutors to withdraw or amend the false sworn statement in the criminal complaint. LoBianco Dep., Harvis Decl., Exhibit 1, p. 276, ln. 15-18.

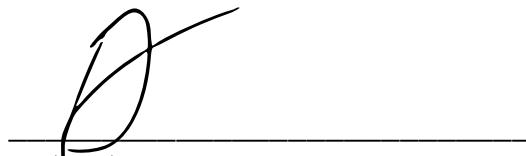
9. The criminal complaint executed by defendant LoBianco was docketed on June 25, 2015, initiating a prosecution against plaintiff Lisa Snead for charges including Consumption of Alcohol on Streets Prohibited (N.Y.A.C. § 10-125(b)). OLPA, Harvis Decl., Exhibit 4, p. 1; Criminal Complaint, Harvis Decl., Exhibit 2.

10. After being held for over eighteen hours, Ms. Snead was arraigned on June 25, 2015 and released on her own recognizance. Court Action Sheet, annexed to Harvis Decl. as Exhibit 5; *People v. Lisa Snead*, Docket Number 2015NY040259, Transcript of Proceedings on June 25, 2015, annexed to Harvis Decl. as Exhibit 6; OLPA, Harvis Decl., Exhibit 4, p. 1.

11. Following arraignment, Ms. Snead made multiple compulsory court appearances to defend the allegations over the course of approximately fifteen months, before prosecutors conceded that her speedy trial rights had been violated and all of the charges were dismissed. Affirmation of Edward Barret, Esq. dated April 20, 2016, annexed to Harvis Decl. as Exhibit 7; *People v. Lisa Snead*, Docket Number 2015NY040259, Transcript of Proceedings on September 21, 2016, annexed to Harvis Decl. as Exhibit 8; Certificate of Disposition, annexed to Harvis Decl. as Exhibit 9.

Dated: New York, New York
January 22, 2018

HARVIS & FETT LLP



Gabriel P. Harvis
305 Broadway, 14th Floor
New York, New York 10007
(212) 323-6880
gharvis@civilrights.nyc

Attorneys for plaintiff Lisa Snead